IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No. 15580 of 2004

Between:

1 Kalla Babu Rao, s/o late Sri Samba Murthy,
r/o Chillangi, Kirlampudi Mandal, E.G.District.
2 Kalla Veerabhadra Rao, s/o late Sri Samba Murthy,
r/o Prathipadu Village & Mandal, E.G.District.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh, rep., by its Secretary,

Social Welfare (Tribal Welfare) Department, Secretariat, Hyderabad.
2 The Addl.Agent to Government, Rampachodavaram,
East Godavari District.
3 The Special Deputy Collector (Tribal Welfare), Rampachodavaram,

East Godavari District.
4 The Mandal Revenue Officer, Addateegala, East Godavari District.
5 Sri Kosuri Appa Rao, s/o Balaraju,
r/o Malayyapakalu, Addateegala Mandal, E.G.District.
6 Sri Kosuri Satyanarayana, s/o Balaraju,
r/o Malayyapakalu, Addateegala Mandal, E.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of certiorari calling for the records relating to the order of the 2nd respondent made in C.M.A.No.33 of 2003, dt.26-06-2004 preferred against the order of the 3rd respondent in L.T.R.P.No.75 of 2003, dt.09-10-2003 and set aside the same as

illegal, arbitrary and void and consequently direct the respondents to drop all further proceedings in respect of the land of an extent of Ac.5.00 cents in S.No.11/2 and Ac.2.12 cents in S.No.11/1 of the petitioners situated in Puligogulapadu Village, Addateegala Mandal, East Godavi District.

Counsel for the Petitioners : Mr. N.SIVA REDDY

Counsel for the Respondent Nos.1 to 4 : GP FOR SOCIAL WELFARE

Counsel for Respondent Nos.5 & 6 : Mr. K.BALA GOPAL

The Court made the following :

ORDER:

The petitioners father purchased the land admeasuring Acs.5.00 in S.No.11-2 and Acs.2.12 in S.No.11-1 of Puligogulapadu Village, East Godavari District, from non-tribals allegedly prior to coming into force of Regulation 1 of 1970 making certain amendments to A.P. Scheduled Areas Land Transfer Regulations, 1959. On a complaint given by respondents 5 and 6 to the effect that the purchase by the petitioners father is void under the Regulations of 1959, third respondent initiated action under Section 3(1) of the Regulations and by order dt.9.10.2003 dismissed the case against respondents 5 and 6. However, on appeal by respondents 5 and 6, second respondent by order dt.26.6.2004 in C.M.A.No.33 of 2003 allowed the appeal and directed the Mandal Revenue Officer to direct the petitioners to vacate the land and restore the same to the Government and assign in favour of respondents 5 and 6. Assailing the same, present Writ Petition is filed *inter alia* on the ground that the alienations made by non-tribals in favour of petitioners' father are saved by Regulation 1 of 1970 and that in view of condition of non-alienability only for a period of ten years, the transfer made in favour of petitioners father do not suffer from any infirmity under the provisions of A.P. Assigned Lands (Prohibition of Transfer) Act, 1977.

Though interlocutory applications are listed, with the consent of the learned counsel for the parties, the Writ Petition itself is heard and is being finally disposed of. Heard the learned counsel for the petitioners, the learned Government Pleader for respondents 1 to 4, and the learned counsel for respondents 5 and 6.

All the counsel do not dispute that against the orders of second respondent, petitioners have effective alternative remedy of filing revision under Section 6 of Regulation 1 of 1959 as amended by Regulation 1 of 1970. As there are disputed questions of fact with regard to nature of transfer by the vendors of the petitioners' father and also the question of non-alienability of the land assigned to vendors of petitioners' father, this Court declines to record any finding on merits. Liberty is given to petitioners to avail remedy of revision before Government within two weeks from

the date of receipt of this order. As and when such revision is filed, Government may pass appropriate orders in the revision after giving notice to respondents 5 and 6 within a period of eight weeks thereafter. Till then, there shall be status quo as to possession, if the petitioners are not already evicted from the land.

The Writ Petition, with the above observations and directions is disposed of. No costs.

_____

(V.V.S.RAO, J)

16.11.2004

bnr

To

1 The Secretary to Government,

Social Welfare (Tribal Welfare) Department, Secretariat, Hyderabad.
2 The Addl.Agent to Government, Rampachodavaram,
East Godavari District.
3 The Special Deputy Collector (Tribal Welfare), Rampachodavaram,

East Godavari District.
4 The Mandal Revenue Officer, Addateegala(M), East Godavari District.
5. 2CCs to G.P. for Social Welfare, High Court Buildings, Hyderabad.

(OUT)

6. 2CD copies